

COUNTY OF LOS ANGELES
DEPARTMENT OF PARKS AND RECREATION
"Creating Community Through People, Parks and Programs"



Tim Gallagher, Director

May 11, 2004

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVE A CONCESSION AGREEMENT WITH
JAMES EVENT PRODUCTIONS, INC.
FOR THE OPERATION OF A GROUP PICNIC CONCESSION
AT FRANK G. BONELLI REGIONAL PARK
(Fifth District - Three Vote Matter)**

IT IS RECOMMENDED THAT YOUR BOARD:

- 1 Find that approval of the Concession Agreement is exempt under the California Environmental Quality Act (CEQA).
- 2 Approve and instruct the Chairman to sign the attached Concession Agreement between the County and James Event Productions, Inc., for the operation of the Group Picnic Concession at Frank G. Bonelli Regional Park, for a term of five and one-half (5 1/2) years.
- 3, Authorize the Director to exercise an option to extend the term of the Concession Agreement for an additional five (5) years upon determining that the concessionaire is in full compliance with all terms and conditions of the Concession Agreement.

PURPOSE/JUSTIFICATION OF THE RECOMMENDED ACTION

The recommended action would approve a five and one-half (5 1/2) year Concession Agreement with James Event Productions, Inc., effective upon approval by your Board. The group picnic area at Frank G. Bonelli Regional Park (Bonelli Regional Park) has been operated under short-term facility use permits since the previous Concession Agreement was terminated by your Board in November 1999.

Implementation of Strategic Plan Goals

The proposed Concession Agreement will further the Board-approved County Strategic Plan Goal 3, Organizational Effectiveness, by utilizing an experienced group picnic provider to market, schedule, and conduct group picnic activities at Bonelli Regional Park. It will also further Goal 4, Fiscal Responsibility, by generating revenues and providing funding for infrastructure maintenance and repair at the Bonelli Regional Park group picnic area; and Goal 5, Children and Families' Well-Being, by adding youth day camp activities to the programming at the group picnic area.

FISCAL IMPACT/FINANCING

Pursuant to the terms of the Concession Agreement, the concessionaire shall pay the County twenty percent (20%) of its monthly gross receipts through the end of this calendar year 2004. Beginning in calendar year 2005, the concessionaire shall pay the County the greater of an annual minimum, increasing from \$80,000 to \$110,000 during the Concession Agreement's term, or twenty percent (20%) of the annual gross receipts. Five percent (5%) of the concessionaire's annual gross receipts will be deposited into a trust fund, administered by the Department, to be used for capital improvements to the group picnic area.

Pursuant to Exhibit B of the attached Concession Agreement, and in addition to the capital projects paid for by the trust fund identified above, the concessionaire will provide approximately \$480,000 of improvements, repairs and refurbishments to the group picnic areas. This will include repairing and upgrading existing irrigation and electrical systems, painting and repairing existing shade structures, repairing or replacing cracked concrete, installing children's play areas, adding security fencing, and adding landscaping, shrubs and shade trees.

The concessionaire shall also contribute \$10,000 in services annually to the Department's Family Music Festival held each summer at Bonelli Regional Park.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The County of Los Angeles is authorized by Government Code Section 25907, to lease recreation lands for concessions and services that are consistent with public park and recreation purposes. A Concession Agreement for the provision of group picnic services at Bonelli Regional Park is consistent with those purposes, and the addition of youth day camp activities will provide greater public utilization of the group picnic area on weekdays and provide additional recreational opportunities for the area youth.

The term of the Concession Agreement for group picnic services is for five and one-half (5 1/2) years, with an additional five-year option to be exercised at the discretion of the

Director of the Department, based upon the concessionaire's compliance with all contract terms.

The County reserves the right to terminate this Concession Agreement, in whole or in part, upon transfer of title of the facility to another public agency unless that agency accepts assignment of this Concession Agreement. In addition, the County may terminate all or portions of this Concession Agreement due to park closure, improper consideration, non adherence to County Lobbyist Ordinance, and concessionaire's failure to comply with the County's Child Support Program. The Concession Agreement also addresses the County's GAIN/GROW Program, Federal Earned Income Credit, and the County's Safely Surrendered Baby Law, and Quality Assurance Program.

County Counsel has approved the Concession Agreement as to form. Additionally, James Event Productions, Inc., has executed the attached Concession Agreement and will provide the required insurance policy naming the County of Los Angeles as an additional insured.

ENVIROMENTAL DOCUMENTATION

The approval of this Concession Agreement is exempt under the California Environmental Quality Act (CEQA) under Section 15301 and Class 1 (r) of the Environmental Document Reporting Procedures and the Guidelines, adopted by your Board on November 17, 1987.

CONTRACTING PROCESS

On April 4, 2002, the Department commenced a solicitation to select a group picnic operator for Bonelli Regional Park. The Department sent ninety-three (93) invitation letters to potential proposers who were either identified on the Internet or who had previously contacted the Department to express interest in the Bonelli Group Picnic Concession. Notice of the solicitation was also posted on the County's "Doing Business with Us" web site and the Department's web site. The invitations included bilingual instructions on how to contact the Department regarding the solicitation. Request for Proposal (RFP) Packages were available to proposers on April 11, 2002, and the conference was held on April 18, 2002, at Bonelli Regional Park and attended by seven (7) potential proposers. Due to a request for additional information by one of the attendees, a second site walk-through was held on May 15, 2002, and had one attendee. The submission deadline was then extended from May 16 to May 30, 2002. Two (2) proposals were subsequently received, and both met the minimum requirements as specified in the RFP package.

A four member evaluation panel, comprised of two Department employees and two staff members from the City of Los Angeles Department of Recreation and Parks, was selected. The panelists evaluated each proposal based on criteria identified in the RFP,

which included the proposer's experience and financial stability, proposed rent to the County, and proposed service and refurbishment programs. The evaluation panel completed their evaluations in October, 2002, when the panel members finalized their ratings of the proposals. Based on these criteria, the proposal submitted by James Event Productions, Inc. received the highest ranking and the Department initiated final contract negotiations. However, negotiations were unavoidably delayed when the recommended concessionaire suffered a near fatal skiing accident in February 2003. Negotiations resumed last summer, but were further delayed when Department staff was diverted to other high priority projects. The concessionaire was selected without regard to gender, race, creed or color.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The recommended contractor has been providing group picnic services at Bonelli Park under facility use permits for the past two summers. However, it is anticipated that the Concession Agreement will encourage more aggressive marketing of the facility, ultimately resulting in increased public use of the group picnic area.

CONCLUSION

A certified copy of the action taken by your Board and a fully-executed copy of the attached Concession Agreement should be mailed to James Event Productions, Inc., 1116 N. Olive Street, Anaheim, California, 92801. In addition, it is requested that one (1) conformed copy be sent to the Department, and one (1) conformed copy sent to the Treasurer and Tax Collector.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tim Gallagher', with a stylized, cursive script.

Tim Gallagher
Director

TG:ds



CONCESSION AGREEMENT

BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

JAMES EVENT PRODUCTIONS, INC.

FOR

**Group Picnic Operations at
Frank G. Bonelli Regional Park**

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**CONCESSION AGREEMENT
FOR GROUP PICNIC OPERATIONS
AT FRANK G. BONELLI REGIONAL PARK**

THIS CONCESSION AGREEMENT, made and entered into this _____ day
of _____, 2004,

BY AND BETWEEN

COUNTY OF LOS ANGELES,
a body corporate and politic,
hereinafter referred to as "County",

AND

JAMES EVENT PRODUCTIONS,
hereinafter referred to as
"Contractor",

R E C I T A L S:

WHEREAS, County owns Frank G. Bonelli Regional Park in San Dimas; and

WHEREAS, the Board of Supervisors is authorized by the provision of Government Code Section 25907 to contract for concessions and services that are consistent with public park and recreation services; and

WHEREAS, a concession for the provision of group picnic services upon land within said park is consistent with said purposes; and

WHEREAS, Contractor is willing to enter into and perform a concession agreement in accordance with the terms and conditions prescribed therefor;

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth herein, the parties hereto and each of them do agree as follows:

1.0 DEFINITIONS

1.1 The headings herein contained are for convenience and reference only and are not intended to define or limit the scope of any provisions thereof.

1.2 The following words as used herein shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used:

1.2.1 **Auditor-Controller:** The Auditor-Controller of the County of Los Angeles or an authorized representative thereof.

1.2.2 **Beverage:** any liquid prepared by flavoring, heating and/or mixing in advance of consumption thereof, excluding alcoholic beverages.

1.2.3 **Bonelli Regional Park Group Picnic Area:** the shelters, food preparation buildings, parking lots, and turf areas comprising Group Picnic Areas one through four (1 – 4) at Bonelli Regional Park as identified in Exhibit A.

1.2.4 **Concession:** the privilege of engaging in the commercial activities authorized herein on the public property designated therefore.

1.2.5 **Director:** the Director of the County of Los Angeles Department of Parks and Recreation or an authorized representative thereof.

1.2.6 **Gross Receipts:**

- a. Except as specifically provided by policy statement issued by the Director, the term "gross receipts" as used in this Agreement, is defined to be all money, cash receipts, assets, property or other things of value, including but not limited to gross charges, sales, rentals, fees and commissions made or earned by Contractor and/or all the assignees, sublicensees or permittees thereof, whether collected or accrued from any business, use or occupation, or any combination thereof, originating, transacted, or performed in whole or in part, on the concession premises, including but not limited to rentals, the rendering or supplying of services, the sale of goods, wares or merchandise.
- b. Except as specifically provided below or by policy statement issued by the Director, there shall be no deduction from gross receipts for any overhead or cost or expense of operations,

such as, but without limitation to salaries, wages, costs of goods, interest, debt amortization, credit, collection costs, discount from credit card operations, insurance and taxes. Bona fide bad debts, cash refunds of fees, or other charges actually incurred by Contractor or its assignees, licensees, and permittees may be deducted from gross receipts. There shall, however, be no deduction for bad debts based on past experience or transfers to a bad debt reserve. Subsequent collection of bad debts previously not reported as gross receipts shall be included in gross receipts at the time they are collected.

- c. Except as specifically provided below or by policy statement issued by the Director, gross receipts reported by Contractor and its assignees, licensees, and permittees, must include the full usual charges for any services, goods, rentals or facilities provided by Contractor or its assignees, licensees, or permittees. Gross receipts shall not include direct taxes imposed upon the consumer and collected therefrom by the Contractor such as, but not limited to, retail sales taxes, excise taxes, or related direct taxes, which are direct taxes paid periodically by Contractor to a governmental agency accompanied by a tax return statement.
- d. The Director, by policy statement, consistent with recognized and accepted business and accounting practices, and with the approval of Auditor-Controller and County Counsel, may further interpret the term "gross receipts" as used in this Agreement.

1.2.7 Gross Sales Price: the total consideration resulting from the transfer of Contractor's interest in the concession, or any portion thereof, determined by the total cash payments and the market value of all non-cash consideration, including, but not limited, stocks, bonds, deferred payments, secured and unsecured notes, and forbearance's regarding claims and judgments.

1.2.8 **Operational Year:** the first operational year will commence on the first day following approval of this Agreement by the Board of Supervisors and conclude December 31, 2004. The second and all subsequent operational years will be defined as January 1, through December 31, commencing January 1, 2005.

1.2.9 **State:** the State of California.

2.0 CONCESSION GRANTED

- 2.1 Contractor is responsible for and shall provide the following services: selling food and beverages; conducting entertainment programs, youth day camps, sports, and games of skill; and providing such additional services as are usual and customary in the conduct of a commercial picnic service business. Contractor may provide beer and wine services for its events, provided that County approval is received pursuant to subparagraph 12.20, Schedule of Events.
- 2.2 The group picnic service provided by the Contractor shall be exclusive only within Bonelli Park Group Picnic Area, and shall not preclude County from granting the same or similar entitlements in the balance of Bonelli Park.
- 2.3 Contractor understands and agrees that this Agreement is by license and not lease; confers only permission to occupy and use the concession premises for concession purposes in accordance with the terms and conditions hereinafter specified without granting or reserving to Contractor any interest or estate therein; the expenditure of capital and/or labor in the course of use and occupancy hereunder shall not confer any interest or estate in the premises by virtue of said use, occupancy and/or expenditure of capital thereon; and it is the intention of the parties to limit the right of use granted herein to a personal, revocable and unassignable privilege of use in the premises for the concession granted herein.

3.0 CONCESSION PREMISES

- 3.1 The concession shall be conducted on the real property described in the attached Exhibit A.
- 3.2 The concession premises shall be used only and exclusively for purposes authorized herein, and such other purposes as are directly related thereto provided express approval therefore is granted by the Director, and for no other purposes whatsoever.
- 3.3 Contractor acknowledges personal inspection of the concession premises and the surrounding area and evaluation of the extent to which the physical condition thereof will affect its operations. Contractor accepts the concession premises in its present physical condition, and agrees to make no demands upon County for any improvements or alterations thereof.
- 3.4 Contractor may make or construct or cause to be made or constructed additions, alterations, repairs or changes in the concession premises as authorized by the Director pursuant to Paragraph 8, Improvements.
- 3.5 Contractor hereby acknowledges the title of County, and/or any other public agencies having jurisdiction thereover, in and to the concession premises and the improvements located thereon, and covenants and agrees never to assail, contest or resist said title.
- 3.6 Ownership of all structures, buildings or improvements constructed by Contractor upon the demised premises and all alterations, additions or betterment's thereto, shall become the property of the County without compensation being paid therefore, subject to the rights granted to the Contractor hereinabove. Upon termination thereof, whether by expiration of the term, cancellation, forfeiture or otherwise, the Director may require the Contractor to remove said structures, building and/or improvements upon written notice ninety (90) days prior to the date of termination of this Agreement. Should Contractor fail to remove said structures, building and improvements, same may be sold, removed or demolished, and Contractor shall reimburse County for any cost or expense in connection

therewith in excess of any consideration received by County as a result of said sale, removal or demolition.

4.0 TERM OF AGREEMENT

- 4.1 This Agreement shall commence on the first day following approval by the Board of Supervisors, and terminate on December 31, 2009, unless terminated or extended, in whole or in part, as provided herein.
- 4.2 Prior to (90) days before the expiration of the term of this Agreement, County may exercise, at Director's sole discretion, an option to extend this Agreement for a maximum additional term of up to five (5) years.

5.0 CONSIDERATION

- 5.1 Upon commencement of the first (1st) operational year Contractor shall pay County for the concession and use granted herein a monthly amount equal to twenty percent (20%) of its gross receipts;
 - 5.1.1 Payment shall be made to the Department on or before the fifteenth (15th) day of the calendar month following each month of the first operational year of this Contract.
- 5.2 Upon commencement of the second (2nd) operational year of the term, Contractor shall pay the County for the use granted the following amount(s) which shall be equal to the greater of twenty percent (20%) of annual gross receipts or the annual minimum rent payment as hereinafter provided.
 - 5.2.1 Commencing with second (2nd) operational year of the term, the annual minimum rent payment shall be Eighty Thousand Dollars (\$80,000.00).
 - 5.2.2 Commencing with the third (3rd) operational year of the term, the annual minimum rent payment shall be Ninety Thousand Dollars (\$90,000.00).
 - 5.2.3 Commencing with the fourth (4th) operational year of the term, the annual minimum rent payment shall be One Hundred Thousand Dollars (\$100,000.00).

- 5.2.4 Commencing with the fifth (5th) operational year of the term, the annual minimum rent payment shall be One Hundred and Ten Thousand Dollars (\$110,000.00).
- 5.2.5 The above annual minimum rent shall be paid in six (6) equal monthly installments in the months of May through October.
- 5.3 Payment shall be by check or draft and made payable to the County of Los Angeles Department of Parks and Recreation. Payment shall be mailed or otherwise delivered to the Treasurer/Tax Collector, P.O. Box 54927, Los Angeles, California 90054-0927.
 - 5.3.1 Minimum rent payments shall be made to the Department on or before the fifteenth (15) day of the calendar month in which payment is due.
 - 5.3.2 Within thirty (30) days following the conclusion of each Operational Year, Contractor shall submit to the Department an annual report of all gross receipts received during the preceding operational year. Commencing with the 2nd operational year, should the report establish that the sum of all minimum payments is less than twenty percent (20%) of the annual gross receipts, an amount equal to the difference shall be paid by Contractor and submitted to Department with the annual gross receipts report.
 - 5.3.3 A late payment charge of two percent (2%) per month shall be added to any late payment received by the Treasurer-Tax Collector. However, the late payment charge herein provided may be waived, whenever the Director finds late payment excusable by reason of extenuating circumstances. At no time during the term of this Agreement shall the County be obligated to notify Contractor of the accumulation of late payment charges.
- 5.4 Upon approval of this Agreement, the County's Auditor-Controller shall establish an interest-bearing Trust Fund for Bonelli Regional Park Group Picnic Area (Fund). The Fund shall name, and be administered by, the County as the sole trustee in order to provide for continued funding for

capital improvement projects at the Bonelli Regional Park Group Picnic Area. The County shall deposit twenty-five percent (25%) of the Contractor's payments in the Fund. The distribution of monies deposited and any interest earned thereon shall be: (a) used exclusively at Bonelli Regional Park Group Picnic Area, and (b) disbursed at the discretion of the Director pursuant to Section 8 hereinafter. At the termination of this Agreement, all unexpended monies shall be retained by the County.

- 5.5 In addition to the above identified consideration, during each year of the term of this Agreement, Contractor will provide Ten Thousand Dollars (\$10,000) in services for the Department's Annual Family Music Festival at Bonelli Regional Park. Contractor also agrees to provide, free of charge, three luncheons per operational year for the Department's graduating lifeguard classes, unless otherwise modified in writing by the Director or his designee. No more than thirty days following the end of each operational year, Contractor shall provide Department with documentation of expenses incurred in providing services for the Family Music Festival.

6.0 ACCOUNTING RECORDS

- 6.1 Contractor shall be required to maintain a method of accounting which shall, to the satisfaction of the Auditor-Controller, correctly and accurately reflect the gross receipts and disbursements of Contractor in connection with the concession. The method of accounting, including bank accounts, established for the concession shall be separate from the accounting system used for any other business operated by Contractor or for recording Contractor's personal financial affairs. Such method shall include the keeping of the following documents: regular books of accounting such as general ledgers; journals including any supporting and underlying documents such as vouchers, checks, tickets, bank statements, etc.; State and Federal income tax returns and sales tax returns and checks and other documents providing payment of sums shown which shall be kept in confidence by County; daily sales reports,

event logs and picnic contracts; and any other accounting records that the Auditor-Controller deems necessary for proper reporting of receipts.

6.2 All documents, books and accounting records shall be open for inspection and reinspection at any reasonable time during the term of this Agreement and for twelve (12) months thereafter. In addition, the County may from time to time conduct an audit and reaudit of the books and business conducted by Contractor and observe the operation of the business so that accuracy of the above records can be confirmed. All information obtained in connection with the County's inspection of records or audit shall be treated as confidential information and exempt from the public disclosure thereof to the extent permitted under the California Public Records Act.

6.3 Contractor shall furnish the County with a monthly gross receipts report showing all revenues from Contractor's activities at the "Bonelli Regional Park Group Picnic Area". Such report shall be submitted not later than the fifteenth (15th) day of the month next succeeding the reporting period. The monthly reporting period shall be by calendar month rather than the anniversary date of the approval date of this Agreement. In addition thereto, Contractor shall furnish the Director with an annual profit and loss statement and a balance sheet prepared in a form acceptable to County. The annual profit and loss statement shall be submitted within sixty (60) days of the close of an operational year. Said closing date shall be determined by reference to the date for commencement of the term herein provided.

6.4.1 In the event that an audit or review conducted by the Auditor-Controller and/or Director finds that due to Contractor's non-compliance with its obligation to report gross receipts received in connection with its operations authorized herein, an actual loss and/or a projected loss of revenue to County can be determined, Director may, at his option, (a) bill Contractor for said losses, said amount to be paid to County within thirty (30) days following billing

therefore unless otherwise specified by Director, and/or (b) use the Security Deposit as provided for hereinafter.

6.4.2 In the event that an audit or review conducted by the Auditor-Controller and/or Director finds that, due to Contractor's non-compliance with its obligation to report gross receipts received in connection with its operations herein, the actual loss and/or projected loss of revenue to County cannot be determined, Director may assess liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to correctly report gross receipts, and a projected loss of revenue due to the County. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is Five Hundred Dollars (\$500.00) per day for each day of the loss period as determined by County, and that Contractor shall be liable to County for liquidated damaged in said amount.

6.4.3 Should the Director find that the additional rental payment due to County exceeds two percent (2%) of the total amount which should have been paid as determined by such review or audit and observation, and there being no reasonable basis for the failure to report and pay thereon, Contractor shall also pay the cost of the audit as determined by County and pay any penalty heretofore provided for the delinquent payments.

6.5 Contractor shall cause all of its sublessees to comply with these requirements except that a sublessee shall only be required to establish and maintain those accounting records that the Auditor-Controller deems necessary to examine the reported gross receipts in accordance with generally accepted auditing standards.

7.0 REQUIRED REFURBISHMENT

7.1 Contractor shall provide for the construction, refurbishment or replacement of fixtures, hereinafter, identified as the "Refurbishment", upon the

Demised Premises in compliance with the Statement of Work set forth in Exhibit B, attached hereto and incorporated herein by reference.

- 7.2 Any refurbishment undertaken by Contractor pursuant to Paragraph 7.1, Required Refurbishment, shall be subject to the requirements and procedures of Section 8, Improvements.

8.0 IMPROVEMENTS

- 8.1 Approvals: Any proposed improvement undertaken by the Contractor which requires the issuance of a building permit, including but not limited to construction of utilities, landscape planting, replanting or removal, irrigation, site improvements such as paths, walkways, benches, lighting, interpretive exhibits and panels, demolition, relocation or replication of existing buildings, and construction of new buildings, shall be submitted to and have the prior written approval of the Director. Notice of a proposed improvement project shall be provided to the Director in writing and shall include sufficient detail regarding proposed scope, cost estimate, time frame and proposed funding for the project. The Director shall provide written approval, or estimated time required to provide such approval to the Contractor within 30 days of receipt of all necessary documents.
- 8.2 Funding: Unless otherwise approved by the Director in writing, all funds for the costs of any capital improvement, inclusive of costs of performance and payment bonds and the costs of any permits, shall be solely the responsibility of the Contractor. The Director agrees to consult with the Contractor, as requested, with regard to the feasibility of public-assisted financing methods in connection with proposed capital improvements.
- 8.3 Plan Preparation:
- 8.3.1 The Contractor shall ensure that all improvement plans are prepared by qualified professionals such as architects, engineers and landscape architects who are licensed by the State of California and are approved in advance by the Director. In addition, the Contractor shall be required to utilize the services of an

experienced construction management consultant in connection with any project performed hereunder, unless otherwise agreed to in writing by the Director.

8.3.2 The Contractor shall obtain the written approval of the Director of the schematic design, design development, construction drawings, bid documents, and cost estimates at 50%, 75% and 90% complete stages of any project performed hereunder, unless otherwise agreed to in writing by the Director.

8.4 Contract Approval: Copies of all contracts for projects requiring the issuance of a building permit between Contractor and the Contractor's architects, engineers, and contractors shall be furnished to and consented to in writing by the Director. The Director's consent shall not be unreasonably withheld.

8.5 Environmental Impacts: The Contractor shall coordinate environmental impact issues with the Director in compliance with the California Environmental Quality Act ("CEQA") and shall receive written approvals and authorizations from the Director. The Contractor shall, however, maintain full responsibility for implementing all CEQA and related requirements.

8.6 Construction Management: The Contractor and/or its construction manager shall maintain responsibility for conducting regularly scheduled site inspections and job meetings. Documentation of these meetings shall be maintained by the Contractor and be available for review by Department staff.

8.7 Performance Bond: In connection with any capital improvement project performed hereunder, the Contractor shall, at its own cost, obtain or require its contractor to obtain a performance bond from an admitted California surety, in good standing, in an amount equal to one hundred percent (100%) of the construction cost of the improvement, unless the Director otherwise agrees in writing. Said performance bond and surety

must be satisfactory to the County and shall name the County of Los Angeles and the Contractor as obligees.

8.8 Payment Bond: In connection with any project performed hereunder, the Contractor shall, at its own cost, obtain or require its contractors to obtain a payment bond from an admitted California surety, in good standing, equal to one hundred percent (100%) of the construction cost of the project, unless the Director otherwise agrees in writing. Said payment bond and surety must be satisfactory to the County and shall name the County and the Contractor as obligees.

8.9 Prevailing Wages: In connection with any capital project performed hereunder and utilizing Trust Funds pursuant to paragraph 8.11, the Contractor shall comply with and shall require all of its contractors to comply with all provisions of the Labor Code of the State of California, including but not limited to, the payment of prevailing wages to all persons providing labor on any such project.

8.10 Compliance With All Laws and Building Codes:

The Contractor shall comply with and require its contractors to comply with all applicable laws, including Building Code requirements in connection with any projects performed hereunder.

8.11 Trust Fund Expenditures:

8.11.1 Upon final approval by Director of the plans, specifications and construction cost estimates for capital improvement(s), the Director will authorize the issuance of a warrant to Contractor in the amount of ninety percent (90%) of the construction cost estimate. Upon completion of the capital improvement(s) and acceptance by the Director, said officer shall authorize the issuance of a warrant to the Contractor in the amount of the remaining balance of the actual construction cost.

8.11.2 The monies deposited and accumulated in the Capital Improvement Program Trust Fund shall at all times be administered by the County as trustee. At the termination of the Agreement, all

unexpended funds shall be retained by the County and deposited in the Special Development Fund for Bonelli Regional Park Group Picnic Area.

8.11.3 It is expressly understood by County and Contractor that any and all distributions from said fund shall be used exclusively for capital improvements within the demised premises as identified in paragraph 3.1.

8.12 Upon review by and consultation with County's Risk Manager, Contractor shall provide such insurance coverage as Director deems necessary for the completed construction project.

8.13 Additional Provisions: It is contemplated that the County may impose additional obligations on the Contractor with respect to particular capital improvement projects performed hereunder and such additional requirements may be set forth in a separate writing signed by the Contractor and the Director on behalf of the County.

9.0 SECURITY DEPOSIT

9.1 Prior to the commencement of this Agreement, Contractor shall pay to the Director the sum of one-fourth (1/4) the annual minimum rental amount. In lieu thereof, Contractor may deposit said amount in a bank whose deposits are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) or a savings and loan institution whose deposits are insured under Title 4 of the National Housing Act (12 U.S.C. 1724 et seq.), provided that a certificate of deposit is delivered to the Director giving County the exclusive right to withdraw any or all of said amount during the term of this Agreement. Contractor shall be entitled to any and all interest accruing from said certificate of deposit.

9.2 Said Deposit shall serve as security for faithful performance of all covenants, promises and conditions assumed herein by Contractor, and may be applied in satisfaction and/or mitigation of damages arising from a breach thereof, including, but not limited to, delinquent payments; correction of maintenance deficiencies; securing required insurance; loss

of revenue due to abandonment, vacation or discontinuance of concession operations; discrimination; refunding of deposits for scheduled future events which are required to be canceled due to abandonment, vacation or discontinuance of concession operations; a breach of obligations assumed by Contractor herein with respect to the requirements therefore by County, including the payment of mechanic's liens. Application of amounts on deposit in satisfaction and/or mitigation of damages shall be without prejudice to the County's exercise of any other rights provided herein or by law to remedy a breach of this Agreement.

9.3 In the event any or all of said amount is applied in satisfaction and/or mitigation of damages Contractor shall immediately deposit such sums as are necessary to restore the Security Deposit to the full amount required hereunder.

9.4 Said Deposit shall be returned to Contractor upon termination of this Agreement less any amounts that may be withheld therefrom by County as heretofore provided.

10.0 DESTRUCTION OF THE CONCESSION PREMISES AND/OR FRANK G. BONELLI REGIONAL PARK

10.1 In the event the concession premises shall be totally or partially destroyed by a risk covered by the insurance coverage required herein, Contractor shall either restore the premises or terminate this Agreement. If the destruction is from a risk for which coverage is not required or provided under said policy of insurance, County shall either restore the premises or terminate this Agreement. County shall make the loss adjustment with the insurance company insuring the loss and receive payment of the proceeds of insurance. Said insurance proceeds, if any, shall be held for the benefit of Contractor only in the event of an election by Contractor to restore the premises and shall be disbursed in installments as construction progresses for payment of the costs of restoration upon satisfactory performance of the work required, as evidenced by certification of completion by the Director and release of mechanic's liens by all persons

furnishing labor and materials thereon. If the proceeds of insurance are insufficient to pay the actual costs of restoration, Contractor shall deposit the amount of the deficiency with the County upon demand therefor by the Director, and said sums shall be held for payment of said costs and disbursed in the manner heretofore provided. Any undistributed funds shall be retained by County and credited to the rental reserved over the remaining term of this Agreement. In the event Contractor elects to restore the demised premises, plans, specifications, and construction cost estimates for the restoration thereof shall be prepared by Contractor and forwarded to Director for approval prior to the performance of any work thereon. Said documents shall be prepared and submitted in a timely manner following adjustments of the loss and receipt of the proceeds of insurance by County. The required construction shall be performed by Contractor and/or licensed and bondable contractor(s) thereof who shall be required to carry comprehensive liability and property damage insurance, workers' compensation insurance, and standard fire, and extended coverage insurance, with vandalism and malicious mischief endorsements, during the period of construction, in amounts equal to the insurance limits required herein, or as otherwise determined by the County. Said construction shall be commenced promptly following the approval thereof by the Director, issuance of permits therefor by governmental agencies having jurisdiction thereover, and posting of the construction site by County with notice of non-responsibility, and shall be diligently prosecuted to completion. All work shall be performed in accordance with the approved plans and specifications, unless changes therein are approved in advance thereof by Director. Contractor agrees that County may have on the site at any time during the construction period an inspector who shall have the right of access to the demised premises and the work occurring thereon. Contractor, at the commencement of the construction work, shall notify Director in writing of the identity, place of business, and telephone number of responsible

person(s) in charge of the construction to be occurring thereon. All construction shall be performed in a good and workmanlike manner. Upon completion of the restoration, Contractor shall immediately record a notice of completion with the Registrar-Recorder.

- 10.2 If the premises are restored, this Agreement shall continue in full force and effect, except that the payment to be made by Contractor shall be abated and/or other relief afforded to the extent that the Director may determine the damage and/or restoration interferes with the concession operation provided a claim therefor is filed with the Director within one hundred (100) days of notice of election to restore the premises. Any such claim shall be denied if the destruction of the concession premises is found by the Director to have been caused by the fault or neglect of Contractor. Contractor agrees to cooperate in the determination of the abatement and/or other relief to be provided by furnishing all information requested relative to the concession operation, and permitting examination and audit of all accounting records kept in connection with the conduct thereof.
- 10.3 Contractor shall cooperate in the restoration of the concession premises by vacating and removing therefrom all items of inventory, trade fixtures, equipment and furnishings for such periods as are required for the restoration thereof.
- 10.4 The aforesaid provisions for abatement and/or other relief shall also be applicable to a total or partial destruction of Bonelli Regional Park by the aforementioned causes, except that the relief to be provided shall be based upon the extent the Director may determine that the reduction in the public's use of said park due to the partial or total closure thereof has affected the concession.
- 10.5 Contractor agrees to accept the remedy heretofore provided in the event of a destruction of the concession premises and/or Bonelli Regional Park and hereby waives any and all additional rights and remedies for relief or compensation that are presently available or may hereafter be made available under the laws and statutes of this State.

11.0 CONSTRUCTION BY COUNTY AFFECTING CONCESSION PREMISES AND/OR FRANK G. BONELLI REGIONAL PARK

- 11.1 In the event County shall construct or cause to be constructed a new facility for the concession, this Agreement shall continue in full force and effect, except that the payments to be made by Contractor shall be abated and/or other relief afforded to the extent that the Director may determine the construction interferes with the authorized operations, provided a claim therefor is filed with the Director within one hundred (100) days of commencement of construction.
- 11.2 In the event the construction affects the concession Contractor agrees to cooperate with County premises by vacating and removing therefrom all items of inventory, trade fixtures, equipment and furnishings for such periods as are required by the construction of the new facilities. Contractor further agrees to cooperate in the determination of the abatement and/or other relief to be provided by furnishing all information requested relative to the operation and permitting examination and audit of all accounting records kept in connection with the conduct thereof.
- 11.3 Following completion of the new facility, Contractor shall resume its operations therefrom within thirty (30) days of written notice from the Director that the concession premises are tenantable.
- 11.4 The aforementioned provisions of this section shall also be applicable in the event of performance of work at Bonelli Regional Park generally, and/or the Bonelli Regional Park Group Picnic Area specifically, that requires a partial or total closure thereof, except that the abatement and/or other relief to be provided shall be based upon the extent the Director may determine that the reduction in the public's use of said park due to the partial or total closure thereof, has affected the Contractor's operations.
- 11.5 Contractor agrees to accept the remedy heretofore provided in the event of construction upon the concession premises, and/or Bonelli Regional Park and/or the Bonelli Regional Park Group Picnic Area and hereby waives any and all additional rights and remedies for relief or

compensation that are presently available or may be made available hereafter under the laws and statutes of this State.

12.0 OPERATING RESPONSIBILITIES

12.1 Advance Payments

Contractor shall establish separate records, subject to inspection at all times by County, of all advance payments made by the public for future event reservations.

12.2 Advertising and Promotional Materials

Contractor shall not promulgate nor cause to be distributed any advertising, or promotional materials unless prior approval thereof is obtained from Director. Said approval shall not be unreasonably withheld or delayed and shall be deemed to be given if no objection is made within fifteen (15) days following the request for approval. Such materials include, but are not limited to: advertising in newspapers, magazines and trade journals, and radio and/or television commercials.

12.3 Compliance with Laws, Rules and Regulations

Contractor shall conform to and abide by all municipal and County ordinances, and all State and Federal laws and regulations, insofar as the same or any of them are applicable, and as they may be amended; and where permits and/or licenses are required for the concession, any related activity, and/or construction authorized herein, the same must be first obtained from the regulatory agency having jurisdiction thereover. Further, Contractor shall conform to and abide by all rules and regulations and policies of the County's Board of Supervisors, the Director of the Department of Parks and Recreation, and any other County agencies insofar as the same or any of them are applicable.

12.4 Contractor's Staff and Employment Practices

12.4.1 Contractor shall maintain an adequate and proper staff for its authorized operations. Contractor shall designate one member of its staff as an Operations Manager with whom County may deal

with on a daily basis. Any person selected by Contractor as an Operations Manager shall be skilled in the management of businesses similar to the concession operation and shall be subject to reasonable approval by the Director. The Operations Manager shall devote substantial time and attention to the operation authorized herein and render such services and convenience to the public as are required. The Operations Manager shall be fully acquainted with the concession operation, familiar with the terms and the conditions prescribed therefor by this Agreement, and authorized to act in the day-to-day operation thereof.

- 12.4.2 The Director may at any time give Contractor written notice to the effect that the conduct or action of a designated employee of Contractor is, in the reasonable belief of the Director, detrimental to the interest of the public patronizing the concession premises. Contractor shall transfer or reassign any such employee within a reasonable period of time following notice thereof from the Director, and such employee shall not be assigned to any other County Department of Parks and Recreation facility.
- 12.4.3 Contractor warrants that it fully complies with all laws regarding employment of aliens and others, and that all its employees performing services hereunder meet the citizenship or alien status requirements contained in federal and state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986 (P.L. 99-603). Contractor shall obtain, from all covered employees performing services hereunder, all verification and other documentation of employment eligibility status required by federal statutes and regulations as they currently exist and as they may be hereafter amended. Contractor shall retain such documentation for all covered employees for the period prescribed by law. Contractor shall

indemnify, defend, and hold harmless, the County, its agents, officers and employees from employer sanctions and any other liability which may be assessed against Contractor or County or both in connection with any alleged violation of federal statutes or regulation pertaining to the eligibility for employment of persons performing services under this Agreement.

12.4.4 Contractor shall file with the Director, a certificate for each member of the food and beverage staff showing that within the last two (2) years, such person has been examined and has been found to be free of communicable tuberculosis. "Certificate" means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000), Division 2 of the California Business and Professions Code, or a notice from a public health agency or unit of the Tuberculosis Association which indicates freedom from active tuberculosis.

12.5 Credit in Promotional Materials

Contractor agrees that any advertising or promotional materials promulgated by Contractor which contain the words "Frank G. Bonelli Regional County Park" or any derivative thereof, shall also include the phrase "a unit of the County of Los Angeles Department of Parks and Recreation System" unless specifically approved otherwise by the Director.

12.6 Days and Hours of Operation

Contractor shall have the right to use the demised premises during the normal hours of operation of Frank G. Bonelli Regional Park, from dawn until dusk.

12.7 Department's Use of Concession Premises

Notwithstanding Sub-paragraph 2.2 of this Agreement, the Department reserves the right to schedule the use of the concession premises for

special events sponsored by the Department. Specific dates and the areas to be used shall be arranged with the Contractor.

12.8 Disorderly Persons

Contractor agrees to exercise every reasonable effort to not allow any loud, boisterous or disorderly persons on the concession premises.

12.9 Easements

County reserves the right to establish, grant or utilize easements or rights of way over, under, along and across the concession premises for utilities and/or public access provided that County shall exercise such rights in a manner as will avoid any substantial interference with the operations to be conducted hereunder. Should the establishment of such easements permanently deprive Contractor of the use of a portion of the concession premises, an abatement of payments shall be provided in an amount proportional to the total area of the concession premises in the before and after conditions.

12.10 Habitation

The concession premises shall not be used for human habitation.

12.11 Illegal Activities

Contractor shall not knowingly permit any illegal activities to be conducted upon the concession premises.

12.12 Maintenance

12.12.1 Contractor shall be responsible for maintaining the demised premises in good and substantial repair and condition except that County shall be responsible for mowing the turf areas. Maintenance shall include repairs to or replacement of all improvements and equipment, including the painting thereof, upon written request therefor by the Director. In addition to this general requirement, Contractor shall perform any and all repairs required for the maintenance thereof in compliance with all laws applicable thereto including, but not limited to: heating and/or air conditioning systems; replace broken window glass; repair or

replace broken or damaged doors; replace interior lights; and repair plumbing and lighting fixtures. Additionally, Contractor shall be responsible for repairing damage to the exterior of the concession premises structures caused by malicious mischief, vandalism or burglary of the concession. All maintenance shall be commenced within thirty (30) days of the need thereof and diligently prosecuted to completion of same, except where the state of disrepair is such that an emergency or hazard is created thereby in which event there shall be an immediate correction thereof.

12.12.2 Notwithstanding section 12.12.1 hereinabove, County shall be responsible for repairing damage to the demised premises caused by the actions of the County while conducting activities pursuant to section 12.7 (Department's Use of Concession Premises) of this Agreement. County shall not be responsible for correcting conditions due to normal wear and tear.

12.12.3 Either party may cure the default of the other party hereto with respect to the maintenance obligations assumed herein, and upon performance thereof shall acquire a right of reimbursement therefrom for the actual costs of same, including, but not limited to, the cost of labor, materials and equipment furnished in the correction thereof, provided there is prior mutual agreement between Director and Contractor upon the nature and scope of the work to be performed and the costs to be incurred therein. Any demand of County of reimbursement hereunder shall be satisfied by Contractor through payment of the sums deposited with County as security for faithful performance, and/or pro rata monthly installments over the remaining term of this Agreement, commencing with the month next succeeding the date of completion of the maintenance performed. Any demand of Contractor for reimbursement hereunder shall be satisfied by

County through a credit against the monthly rental obligation of Contractor, commencing with the month next succeeding the date of completion of the maintenance performed, and for each and every other month of the remaining term of this Agreement, until a total credit has been provided up to the lesser of the actual costs of cure or the rental reserved over said remaining term. County and Contractor waive all rights to payment on their respective rights to reimbursement for the actual costs of cure of the default of the other with respect to the maintenance obligations assumed herein, except in the manner and amounts heretofore provided.

12.13 Merchandise

Contractor may provide an inventory of concession merchandise required to meet the needs of the public therefor. All food and beverages sold or kept for sale by Contractor shall be first-class in quality, wholesome and pure, and shall conform to the Federal, State and County food laws, ordinances and regulations in all respects. No adulterated, misbranded or impure articles shall be sold or kept for sale by Contractor, and all merchandise kept on hand by Contractor shall be stored and handled with due regard for sanitation. In the event that the Director determines that any merchandise, and/or food products are below first class, the Director shall have the right to order the improvement of the quality of any such items kept or offered for sale.

12.14 Non-Interference

Contractor shall not interfere with the public use of and the programming within Bonelli Regional County Park.

12.15 Prices

Contractor shall at all times maintain a complete list or schedule of the prices collected for all fees, charges, goods, rentals, and services, or combinations thereof, supplied to the public on or from the concession

premises. The Director hereby reserves the right to review and approve said fees and charges. Said prices shall be fair and reasonable based upon the following considerations: that the concession is intended to serve the needs of the public for the goods and/or services supplied at a fair and reasonable cost; comparability with prices charged for similar goods and/or services supplied in the Los Angeles Metropolitan Area; and reasonableness of profit margin in view of the cost of providing same in compliance with the obligations assumed in this Agreement. In the event the Director notifies Contractor that prices being charged are not fair and reasonable, Contractor shall have the right to confer with the Director and justify said prices. Following reasonable conference and consultation thereon, Contractor shall make such price adjustments as may be ordered by the Director. Contractor may appeal the determination of the Director to the Board of Supervisors, whose decision thereon shall be final and conclusive. However, Contractor shall comply with the ordered price adjustment pending the appeal and final ruling thereon by the Board of Supervisors.

12.16 Programmed Events

Contractor shall not promote or sponsor private or public events requiring the use of Bonelli Regional Park outside of the Concession Premises. However, this provision shall not prohibit Contractor from generally advertising or encouraging public use of Bonelli Regional Park.

12.17 Quality of Goods and Services

12.17.1 Service to the public, with goods, services, and merchandise of the best quality and at reasonable charges, is of prime concern to County and is considered a part of the consideration for this Agreement. Therefore, Contractor agrees to operate and conduct its concession operation in a first-class manner, and comparable to other first-class facilities providing similar activities, programs and services. Contractor shall furnish and dispense foods and beverages of the best quality and shall maintain a high standard

of service at least equal to that of similar events and programs conducted on County parks and/or adjacent communities and to those prevailing in such areas for similar products and services, and without discrimination. Contractor, following receipt of written notification therefor, shall immediately withdraw or remove from sale any goods or services which may be found objectionable to the Director based on findings that the provision of such goods or services are harmful to the public welfare.

12.17.2 Contractor has identified the following firms as food providers for this Agreement:

Summitt Catering

Gold Coast Catering

All food providers performing services for Contractor's operations under this Agreement shall have Health Department approved food preparation facilities and comply with all laws, rules and regulations governing the proper storage, preparation and handling of food and beverages. If Contractor intends to utilize alternate food providers, Contractor shall provide Director with documentation of proposed food provider's certificates and licenses prior to obtaining Director's approval to utilize new food service provider.

12.18 Safety

Contractor shall immediately correct any unsafe condition of the concession premises, as well as any unsafe practices occurring thereon. Contractor shall obtain emergency medical care for any member of the public who is in need thereof, due to illness or injury occurring on the concession premises, including a prompt report thereof to the Director. Contractor shall cooperate and comply fully with County, State, municipal, federal or any other regulatory agency having jurisdiction thereover, regarding any safety inspections and certifications of any and all Contractor's structures, enclosures, vehicles and equipment and rides.

12.19 Sanitation

No offensive matter, or refuse, or substance constituting an unnecessary, unreasonable or unlawful fire hazard, or material detrimental to the public health, shall be permitted or remain on the concession premises and within a distance of fifty (50) feet thereof, and Contractor shall prevent any accumulation thereof from occurring. Contractor shall provide that all refuse is collected as often as necessary during its operations and shall remove all refuse daily, and shall pay all charges which may be made for the removal thereof. Contractor shall furnish all equipment and materials necessary, including trash receptacles of the size, type, color and number required by the Director, to maintain the concession premises and the area within a distance of fifty (50) feet thereof in a sanitary condition.

12.20 Schedule of Events

Contractor shall provide Director with a schedule of group picnic activities. The Director's pre-approval is required for each event involving the consumption of alcoholic beverages. The Contractor shall complete the necessary required documents for said approval and submit these documents to the Regional Director in accordance with the Department of Parks and Recreation Rules and Regulations.

12.21 Security Devices

Contractor, at its own expense, may provide any legal devices or equipment and the installation thereof, designated for the purpose of protecting the concession premises from theft, burglary or vandalism, provided written approval for the installation thereof is first obtained from the Director.

12.22 Signs

Contractor shall not post signs upon any County property or improvements thereon unless prior approval thereof is obtained from the Director.

12.23 Trade Fixtures

Contractor shall provide and install all appliances, furniture, fixtures and equipment that are required for the concession. During the last thirty (30) days preceding the termination of this Agreement, Contractor shall remove same from the premises, other than for those items of personalty which have been furnished by County or so affixed that their removal therefrom cannot be accomplished without damage to the realty. Should Contractor fail to so remove said appliances, furniture, fixtures, equipment, door locks and padlocks within said thirty (30) day period, Contractor shall lose all right, title and interest in and thereto, and County may elect to keep same upon the premises or to sell, remove or demolish same. Contractor shall reimburse County for any and all costs, as determined by the Director, incurred in excess of any consideration received from the sale, removal or demolition thereof.

12.24 Utilities

12.24.1 County shall provide and pay for any necessary utilities serving the concession premises excluding telephone service. Contractor shall pay for telephone service to the Bonelli Regional Park Group Picnic Area. Contractor waives any and all claims against County for compensation for loss or damage caused by a defect, deficiency or impairment of any utility system, water system, water supply system, drainage system, waste system, heating or gas system, electrical apparatus or wires serving the concession premises. Contractor shall make every reasonable effort in its operations to minimize County's costs for utilities.

12.24.2 County at its sole discretion and at any time during the term of this Agreement, may install or cause to be installed a separate metering system for the electric service to the group picnic area. Subsequent to said installation, Contractor shall be solely responsible for the payment of electric service to the group picnic area provided there is mutual agreement on the terms and conditions therefor. The Director may adjust the monthly

minimum amount and/or percentage of gross receipts as a result of the Contractor assuming the cost of said electric service. Said modified amount and/or percentage shall be set by mutual consent of the Director and the Contractor and shall be reasonable in accordance with the costs directly related thereto. Upon confirmation and approval-as-to-form of County Counsel, the Contractor shall execute the appropriate amendment to this Agreement.

12.25 Vehicle Entry Fee Waiver

Contractor's operations pursuant to this Agreement shall be exempt from Bonelli Park Vehicle Entry Fees and Contractor shall neither assess charges nor collect any fees for vehicles entering the group picnic parking area.

13.0 TERMS AND CONDITIONS

13.1 AGREEMENT ENFORCEMENT AND AMENDMENTS TO THE AGREEMENT

- 13.1.1 The Director shall be responsible for the enforcement of this Agreement on behalf of County and shall be assisted therein by those officers and employees of County having duties in connection with the administration thereof.
- 13.1.2 Any officers and/or authorized employees of County may enter upon the concession premises at any and all reasonable times for the purpose of determining whether or not Contractor is complying with the terms and conditions hereof, or for any other purpose incidental to the rights of County within the concession premises.
- 13.1.3 In the event either party commences legal proceedings for the enforcement of this Agreement, the prevailing party shall be entitled to recover its attorney's fees and costs incurred in the action brought thereon.

- 13.1.4 This document may be modified only by further written agreement between the parties. Any such modification shall not be effective unless and until executed by Contractor and in the case of County, until approved by County's Board of Supervisors and executed by the Chairman thereof.

13.2 CANCELLATION

- 13.2.1 Upon the occurrence of any one or more of the events of default hereinafter described in Sub-paragraph 13.12, this Agreement shall be subject to cancellation. As a condition precedent thereto, the Director shall give Contractor ten (10) days notice by registered or certified mail of the date set for cancellation thereof; the grounds therefore; and that an opportunity to be heard thereon will be afforded on or before said date, if request is made therefor.
- 13.2.2 Upon cancellation County shall have the right to take possession of the concession premises, including all improvements, equipment, and inventory located thereon, and use for the purpose of satisfying and/or mitigating all damages arising from a breach of this Agreement.
- 13.2.3 Action by County to effectuate a cancellation and forfeiture of possession shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this Agreement.
- 13.2.4 Any trustee, beneficiary, mortgagee or lender (hereinafter: Lender) under a hypothecation or mortgage previously approved by the Director shall have the right at any time during the term of this Agreement to undertake any and all action that may be required to order to prevent a cancellation of this Agreement and a forfeiture of the concession. Accordingly, the Director shall send a copy of the intended cancellation of this Agreement to any such Lender whose security would be affected thereby, provided

that such Lender shall have previously registered with the Director by written notice specifying the name and address of said Lender; and upon request thereof for postponement, extend the date set therefor by such time as the Director finds reasonable in order to allow said parties to correct the grounds therefor or to provide a new Contractor under a power of sale or foreclosure contained in the hypothecation or mortgage, who upon transfer thereto shall become responsible for the correction thereof within such time as may be allowed by the Director.

13.3 COMPLIANCE WITH CIVIL RIGHTS LAWS

The Contractor hereby assures that it will comply with Subchapter VII of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement. The Contractor shall comply with Exhibit C - Contractor's EEO Certification.

13.4 CONFLICT OF INTEREST

13.4.1 No County employee whose position with the County enables such employee to influence the award of this Agreement or any competing Agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by the Contractor or have any other direct or indirect financial interest in this Agreement. No officer or employee of the Contractor who may financially benefit from the performance of work hereunder shall in any way participate in the County's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the County's approval or ongoing evaluation of such work.

13.4.2 The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances.

13.5 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS

Should the Contractor require additional or replacement personnel after the effective date of this Agreement, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Contractor will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Contractor.

13.6 CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO CHILD SUPPORT ENFORCEMENT

The Contractor acknowledges that the County places a high priority on the enforcement of child support laws and the apprehensive of child support evaders. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "L.A.'s Most Wanted: Delinquent Parents" poster in a prominent position at the Contractor's place of business. The County's Child Support Services Department will supply the Contractor with the poster to be used.

13.7 CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW

The Contractor acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its subcontractors, if any, to post this poster in a prominent position in the subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used.

13.8 CONTRACTOR'S NON-COMPLIANCE AND LIQUIDATED DAMAGES

13.8.1 In the event the Director determines that there are deficiencies in Contractor's operations authorized and required herein, the Director will provide, as specified in sub section 13.12 of this Agreement, a written notice to the Contractor to correct said deficiencies within specified time frames.

13.8.2 In the event that Contractor fails to correct the deficiencies within the prescribed time frames the Director may, at said officer's option; (a) use the Security Deposit as provided for herein, (b) exercise the County's rights under the Section hereinafter entitled Right of Entry and/or (c) assess liquidated damages. The parties agree that it would be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to comply with the obligations for concession operations herein authorized and required. The parties hereby agree that under the current circumstances a reasonable estimate of such damage is \$250 per day for each day of the period of time that the deficiencies exist, and that Contractor shall be liable to County for liquidated damages in said amount.

13.9 CONTRACTOR'S RESPONSIBILITY AND DEBARMENT

13.9.1 Responsible Contractor

A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Agreement. It is the County's policy to conduct business only with responsible Contractors.

13.9.2 Chapter 2.202 of the County Code

The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Contractor on this or other Agreements which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the Agreement, debar the Contractor from bidding on County Contracts for a specified period of time not to exceed three (3) years, and terminate any or all existing Contracts the Contractor may have with the County.

13.9.3 Non-responsible Contractor

The County may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated any term of a Contract with the County, (2) committed any act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a Contract with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

13.9.4 Contractor Hearing Board

If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence that is the basis for the proposed debarment and will

advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. If the Contractor fails to avail itself of the opportunity to submit evidence to the Contractor Hearing Board, the Contractor may be deemed to have waived all rights of appeal.

A record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Hearing Board.

13.9.5 Subcontractors of Contractor

These terms shall also apply to Subcontractors of County Contractors.

13.10 CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

13.10.1 The Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through Purchase Order or Contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

13.10.2 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's

duty under this Agreement to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

13.11 COUNTY'S QUALITY ASSURANCE PLAN

The County or its agent will evaluate the Contractor's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing the Contractor's compliance with all Agreement terms and conditions and performance standards. Contractor deficiencies which the County determines are severe or continuing and that may place performance of the Agreement in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and the Contractor. If improvement does not occur consistent with the corrective action measures, the County may terminate this Agreement or impose other penalties as specified in this Agreement.

13.12 EVENTS OF DEFAULT

13.12.1 The abandonment, vacation, or discontinuance of operations on the concession premises for more than thirty (30) consecutive days.

- 13.12.2 The failure of Contractor to punctually pay or make the payments required hereunder when due, where the delinquency continues beyond ten (10) days following written notice for payment thereof.
- 13.12.3 The failure of Contractor to operate in the manner required by this Agreement, where such failure continues for more than ten (10) days after written notice from the Director to correct the condition therein specified.
- 13.12.4 The failure to maintain the concession premises and the improvements constructed thereon in the state of repair required hereunder, and in a clean, sanitary, safe and satisfactory condition, where such failure continues for more than ten (10) days after written notice from the Director to correct the condition.
- 13.12.5 The failure of Contractor to keep, perform and observe all other promises, covenants, conditions and agreements set forth in this Agreement, where such failure continues for more than thirty (30) days after written notice from the Director for correction thereof, provided that where fulfillment of such obligation requires activity over a period of time and Contractor shall have commenced to perform whatever may be required to cure the particular default within ten (10) days after such notice and continues such performance diligently, said time limit may be waived in the manner and to the extend by the Director.
- 13.12.6 Determination by the County, the California Fair Employment and Housing Department, or the Federal Equal Employment Opportunity Commission of discrimination having been practiced by Contractor in violation of State and/or Federal laws thereon.
- 13.12.7 Transfer of the majority controlling interest of Contractor to persons other than those who are in control at the time of the execution of this Agreement without approval thereof by the Director.

13.12.8 Failure of Contractor to keep, perform and observe all other promises, covenants, conditions and agreements set forth herein.

13.13 FORCE MAJEURE; TIME EXTENSIONS

If performance by a party of any portion of this Agreement is made impossible by any prevention, delay, or stoppage caused by strikes; lockouts; labor disputes; acts of God; inability to obtain services, labor, or materials or reasonable substitutes for those items; government actions; civil commotions; fire or other casualty; or other causes beyond the reasonable control of the party obligated to perform, performance by that party for a period equal to the period of that prevention, delay, or stoppage is excused. Contractor's obligation to pay Rent, however, is not excused by this section.

13.14 GOVERNING LAW, JURISDICTION, AND VENUE

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

13.15 INDEPENDENT CONTRACTOR STATUS

13.15.1 This Agreement is by and between the County and the Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the County and the Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

13.15.2 The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Agreement all compensation and benefits. The County shall have

no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Contractor.

13.15.3 The Contractor understands and agrees that all persons performing work pursuant to this Agreement are, for purposes of Workers' Compensation liability, solely employees of the Contractor and not employees of the County. The Contractor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Contractor pursuant to this Agreement.

13.16 INDEMNIFICATION

The Contractor shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the Contractor's acts and/or omissions arising from and/or relating to this Agreement. The Contractor's duty to indemnify County and its Special Districts shall survive the expiration or other termination of this Agreement.

13.17 INSURANCE REQUIREMENTS

Without limiting the Contractor's indemnification of the County and during the term of this Agreement, the Contractor shall provide and maintain, and shall require all of its subcontractors to maintain, the following programs of insurance specified in this Agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by the County. Such coverage shall be provided and maintained at the Contractor's own expense.

13.17.1 Evidence of Insurance:

Certificate(s) or other evidence of coverage satisfactory to the

County shall be delivered to the Director at 301 N. Baldwin Avenue, Arcadia, CA 91007, prior to commencing services under this Agreement. Such certificates or other evidence shall:

- Specifically identify this Agreement;
- Clearly evidence all coverages required in this Agreement;
- Contain the express condition that the County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance;
- Include copies of the additional insured endorsement to the commercial general liability policy, adding the County of Los Angeles, its Special Districts, its officials, officers and employees as insureds for all activities arising from this Agreement; and
- Identify any deductibles or self-insured retentions for the County's approval. The County retains the right to require the Contractor to reduce or eliminate such deductibles or self-insured retentions as they apply to the County, or, require the Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

13.17.2 Insurer Financial Ratings: Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A:VII unless otherwise approved by the County.

13.17.3 Failure to Maintain Coverage: Failure by the Contractor to maintain the required insurance, or to provide evidence of

insurance coverage acceptable to the County, shall constitute a material breach of the Agreement upon which the County may immediately terminate or suspend this Agreement. The County, at its sole option, may obtain damages from the Contractor resulting from said breach. Alternatively, the County may purchase such required insurance coverage, and without further notice to the Contractor, the County may deduct from sums due to the Contractor any premium costs advanced by the County for such insurance.

13.17.4 Notification of Incidents, Claims or Suits: Contractor shall report to the County:

- Any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against the Contractor and/or the County. Such report shall be made in writing within twenty-four (24) hours of occurrence.
- Any third party claim or lawsuit filed against the Contractor arising from or related to services performed by the Contractor under this Agreement.
- Any injury to a Contractor employee that occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County Contract Manager.
- Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to the Contractor under the terms of this Agreement.

13.17.5 Compensation for County Costs:

In the event that the Contractor fails to comply with any of the indemnification or insurance requirements of this Agreement, and

such failure to comply results in any costs to the County, the Contractor shall pay full compensation for all costs incurred by the County.

13.17.6 Insurance Coverage Requirements for Subcontractors:

The Contractor shall ensure any and all subcontractors performing services under this Agreement meet the insurance requirements of this Agreement by either:

- The Contractor providing evidence of insurance covering the activities of subcontractors, or
- The Contractor providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. The County retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

13.18 INSURANCE COVERAGE REQUIREMENTS

13.18.1 General Liability: Insurance written on ISO policy form CG 00 01 or its equivalent with limits of not less than the following:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

13.18.2 Property Coverage: (1) Real Property - All Risk coverage, including flood, for the full insurable replacement value with a deductible no greater than five percent (5%) of the replacement value; and (2) Personal Property - Coverage for the hazards fire, theft, burglary, vandalism and malicious mischief for the actual cash value of the property.

13.18.3 Automobile Liability written on ISO policy form CA 00 01 or its equivalent with a limit of liability of not less than \$1 million for

each accident. Such insurance shall include coverage for all “owned”, “hired” and “non-owned” vehicles, or coverage for “any auto”.

13.18.4 Workers’ Compensation and Employers’ Liability insurance providing workers compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which the Contractor is responsible. If the Contractor’s employees will be engaged in maritime employment, coverage shall provide workers compensation benefits as required by the U.S. Longshore and Harbor Workers' Compensation Act, Jones Act or any other federal law for which the Contractor is responsible.

In all cases, the above insurance also shall include Employers’ Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

13.19 NON-DISCRIMINATION AND AFFIRMATIVE ACTION

13.19.1 The Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

13.19.2 The Contractor shall certify to, and comply with, the provisions of Exhibit C - Contractor’s EEO Certification.

13.19.3 The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital

status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

13.19.4 The Contractor certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, or physical or mental disability, marital status, or political affiliation.

13.19.5 The Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.

13.19.6 The Contractor shall allow County representatives access to the Contractor's employment records during regular business hours to verify compliance with the provisions of this Sub-paragraph 13.19 when so requested by the County.

13.19.7 If the County finds that any provisions of this Sub-paragraph 13.19 have been violated, such violation shall constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement. While the County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the

Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the County that the Contractor has violated the anti-discrimination provisions of this Agreement.

13.19.8 The parties agree that in the event the Contractor violates any of the anti-discrimination provisions of this Agreement, the County shall, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this Agreement.

13.20 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

The Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

13.21 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

The Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit F of this Agreement and is also available on the Internet at www.babysafela.org for printing purposes

13.22 NOTICES

All notices or demands required or permitted to be given or made under this Agreement shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid. The address to be used for any given notice served by mail upon Contractor shall be James Event Productions, 1116 North Olive Street,

Anaheim, California, 92801, Attention: Garry James. Any notice served by mail upon County shall be addressed to the Director of Parks and Recreation, Attention: Contracts Services Division, 433 South Vermont Avenue, Los Angeles, CA 91007, or such other place as may hereinafter be designated in writing to Contractor by the Director. Addresses may be changed by either party giving ten (10) days' prior written notice thereof to the other party. The Director shall have the authority to issue all notices or demands required or permitted by the County under this Agreement.

13.23 PUBLIC RECORDS ACT

13.23.1 Any documents submitted by Contractor; all information obtained in connection with the County's right to audit and inspect Contractor's documents, books, and accounting records pursuant to Section 6. – Accounting Records; as well as those documents which were required to be submitted in response to the Request for Proposals (RFP) used in the solicitation process for this Agreement, become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order to court of competent jurisdiction.

13.23.2 In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a bid marked "trade secret", "confidential", or "proprietary", the Contractor agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

13.24 PUBLICITY

13.24.1 In recognizing the Contractor's need to identify its services and related clients to sustain itself, the County shall not inhibit the Contractor from publishing its role under this Agreement within the following conditions:

- The Contractor shall develop all publicity material in a professional manner; or
- During the term of this Agreement, the Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the County without the prior written consent of the County's Project Director. The County shall not unreasonably withhold written consent.

13.24.2 The Contractor may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded this Agreement with the County of Los Angeles, provided that the requirements of this Sub-paragraph 13.24 shall apply.

13.25 RECYCLED BOND PAPER

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on this Agreement.

13.26 RIGHT OF ENTRY

13.26.1 Should Contractor be deemed deficient, as determined by Director, in its performance of its obligations required hereunder, County in addition to all other available remedies may, but shall not be so obliged, enter upon the premises and correct

Contractor's deficiencies using County forces, and equipment and materials on the premises suitable for such purposes, or by employing a separate private contractor. County's costs so incurred, including direct and indirect overhead costs as determined by Director, shall be reimbursed to County by Contractor and/or its sureties within thirty (30) days of demand thereof.

13.26.2 In the event of an abandonment, vacation or discontinuance of concession operations for a period in excess of thirty (30) consecutive days, Contractor hereby irrevocably appoints County as an agent for continuing operation of the concession granted herein, and in connection therewith authorizes the officers and employees thereof to (a) take possession of the concession premises, including all improvements, equipment and inventory thereon; (b) remove any and all persons or property on said premises and place any such property in storage for the account of and at the expense of Contractor; (c) sublease or sublicense the premises; and (d) after payment of all expenses of such subleasing or sublicensing, apply all payments realized therefrom to the satisfaction and/or mitigation of all damages arising from Contractor's breach of this Agreement. Entry by the officers and employees of County upon the concession premises for the purpose of exercising the authority conferred hereon as agent of Contractor shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this Agreement.

13.27 SEVERABILITY

If any provision of this Agreement is determined to be illegal, invalid or unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall not be affected thereby and shall remain in full force and effect.

13.28 SUBLICENSES

- 13.28.1 Contractor shall not, without the prior written consent of the Director, sublicense any portion of the concession premises, or sublicense any of the operation or activities authorized or required by this Agreement.
- 13.28.2 In the event the County determines that the Contractor has violated the sublicense provision contained herein, the same shall constitute a material breach of contract upon which the County may determine to cancel, terminate, or suspend this Agreement, or assess liquidated damages. The parties agree that it would be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to comply with the sublicense provision. The parties hereby agree that under the current circumstances a reasonable estimate of such damage is One Thousand Dollars (\$1,000.00) and that the Contractor shall be liable to County for liquidated damages in said amount.

13.29 SURRENDER

- 13.29.1 Upon expiration of the term hereof, or cancellation thereof as herein provided, Contractor shall peaceably vacate the concession premises and any and all improvements located thereon and deliver up the same to County in a reasonably good condition, ordinary wear and tear excepted subject to the right of County to demand removal thereof to the extent that Section 3.6 hereinbefore may be applicable thereto.
- 13.29.2 Upon expiration of the term Contractor shall execute and deliver to County within thirty (30) days after service of written demand, a good and sufficient quitclaim deed of the Contractor's interest in this Agreement and the concession premises. Should Contractor fail or refuse to deliver to County a quitclaim deed as aforesaid, a written notice by County reciting the failure of the Contractor to

execute and deliver the quitclaim deed, shall after ten (10) days from the date of recordation of the notice, be conclusive evidence against Contractor and all persons claiming under Contractor of the termination of the Agreement.

13.30 TAXES AND ASSESSMENTS

13.30.1 The property interest conveyed herein may be subject to real property taxation and/or assessment thereon, and in the event thereof, Contractor shall pay before delinquency all lawful taxes, including but not limited to possessory interest taxes, assessments, fees or charges which at any time may be levied by the State, County, City or any other tax or assessment-levying body upon the concession premises and any improvements located thereon.

13.30.2 Contractor shall also pay all taxes, assessments, fees and charges on goods, merchandise, fixtures, appliances and equipment owned or used therein.

13.31 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN CHILD SUPPORT COMPLIANCE

Failure of the Contractor to maintain compliance with the requirements set forth in Sub-paragraph 13.10, Contractor's Warranty of Adherence to County's Child Support Compliance Program, shall constitute a default by the Contractor under this Agreement. Without limiting the rights and remedies available to the County under any other provision of this Agreement, failure to cure such default within 90 days of notice by the Los Angeles County Child Support Services Department shall be grounds upon which the Auditor-Controller or Board of Supervisors may terminate this Agreement pursuant to Sub-paragraph 13.2, Cancellation.

13.32 TERMINATION FOR IMPROPER CONSIDERATION

13.32.1 The County may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered

or given by the Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing this Agreement or securing favorable treatment with respect to the award, amendment, or extension of this Agreement or the making of any determinations with respect to the Contractor's performance pursuant to this Agreement. In the event of such termination, the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

13.32.2 The Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

13.32.3 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

13.33 TERMINATION FOR INSOLVENCY

13.33.1 The County may terminate this Agreement forthwith in the event of the occurrence of any of the following:

- Insolvency of the Contractor. The Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Contractor is insolvent within the meaning of the Federal Bankruptcy Code;

13.33.2 To the extent permitted by law, the County may terminate this Agreement forthwith in the event of the occurrence of any of the following:

- The filing of a voluntary or involuntary petition regarding the Contractor under the Federal Bankruptcy Code;
- The appointment of a Receiver or Trustee for the Contractor; or the execution by the Contractor of a general assignment for the benefit of creditors.

13.33.3 The rights and remedies of the County provided in this Subparagraph 13.33 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

13.34 TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE

The Contractor, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by the Contractor, shall fully comply with the County's Lobbyist Ordinance, County Code Chapter 2.160. Failure on the part of the Contractor or any County Lobbyist or County Lobbying firm retained by the Contractor to fully comply with the County's Lobbyist Ordinance shall constitute a material breach of this Agreement, upon which the County may in its sole discretion, immediately terminate or suspend this Agreement.

13.35 TERMINATION UPON TRANSFER OF TITLE OR PARK CLOSURE

13.35.1 Notwithstanding any other provision of this Agreement, in the event the County transfers title of the Bonelli Regional Park and the concession premises to a governmental agency (assignee), the County reserves the right to: terminate this Agreement; or, provided there is consent by an assignee, assign the County's interest in this Agreement to said assignee. County shall provide the Contractor with notice of termination or assignment of this Agreement pursuant to this provision.

13.35.2 Notwithstanding any other provision of this Agreement, in the event County closes Bonelli Regional Park, this Agreement shall

be terminated upon the effective date of such closure. Contractor shall immediately cease its operations as of the effective date of Park closure, and within fifteen (15) days thereafter remove all items of its personal property, equipment, and inventory. County shall provide advance notice to the Contractor of such Park closure.

13.36 TRANSFERS

- 13.36.1 Contractor shall not, without written consent of the Director, transfer, assign, hypothecate, or mortgage this Agreement. Any attempted transfer, assignment, hypothecation, mortgage, without the written consent of the Director, shall be null and void, and shall constitute a material breach of this Agreement.
- 13.36.2 Each and all of the provisions, agreements, terms, covenants and conditions herein contained to be performed by Contractor shall be binding upon any transferee thereof.
- 13.36.3 The concession shall not be transferable by testamentary disposition or the State laws of interstate succession, as the rights, privileges, and use conferred by this Agreement shall terminate prior to the date for expiration thereof in the event of the death of Contractor occurring within the term herein provided. Additionally, neither this Agreement nor any interest therein shall be transferable in proceedings in attachment or execution against Contractor, or in voluntary or involuntary proceedings in bankruptcy or insolvency or receivership taken by or against Contractor, or by any process of law including proceedings under Chapter X or XI of the Bankruptcy Act.
- 13.36.4 Shareholders and/or partners of Contractor may, transfer, sell, exchange, assign or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment or divestment is effected in such a way as to give majority control of Contractor to any persons, corporation,

partnership or legal entity other than the majority controlling interest therein at the time of the execution of this Agreement, the Director's approval thereof shall be required. Consent to any such transfer shall be refused, if the Director finds that the transferee is lacking in experience and/or financial ability to conduct the concession.

13.36.5 The prohibition herein contained shall not be applicable with respect to transfers of this Agreement arising from the exercise of a power of sale or judicial foreclosure pursuant to the terms and conditions of a hypothecation or mortgage previously approved by the Director.

13.36.6 In the event Contractor shall request the prior written consent of Director to give, assign, transfer or grant control of this Agreement, and Director gives written consent to the assignment, a transfer fee equal to one percent (1%) of the gross sales price shall be paid to County. Said sum shall be payable to County in full either within thirty (30) days after said consent is given or prior to the close of any escrow, whichever occurs first. Prior to Director's consent to such assignment, the assignor shall first, deliver to assignee a written schedule of all sums due and owing to County from the assignor with such schedule in a form subject to the approval of the Director in all respects, and second, shall deliver to Director, as part of the acceptance of the assignment, a written acknowledgment by the assignee that the assignee (a) affirms the sums due and owing to County and (b) accepts responsibility for payment of such sums directly to County. Exempted from said transfer fee shall be the following:

13.36.6.1 A transfer of an undivided interest the concession between or among co-workers or affiliated entities which results in a change in method of holding title but does not result in a change to the proportional

interests held by the co-owners or affiliated entities prior to the transfer;

- 13.36.6.2 An assignment which serves as security for the repayment of a loan from any lender but which does not entitle the assignee to an immediate right to use, occupy, possess or receive the rents or profits from the concession for so long as the assignor makes the required periodic payments and complies with other provisions of the loan;
- 13.36.6.3 A transfer of title of the concession to a lender purchaser at the foreclosure sale under a deed of trust on the property or by assignment to the lender or its nominee in lieu of foreclosure;
- 13.36.6.4 Such other assignment for which the Director determines that the ownership interests in the concession have remained unchanged, such as a change in the legal or fictitious name of the Contractor without any other change in the equity, in beneficial use of, or legal title to the concession as an asset, or the income produced thereby. The Director's decision in such cases shall be appealable to the Board of Supervisors within ten (10) days after receipt of written notice of the Director's decision. Any such appeal request shall be accompanied by a Certificate of Deposit filed with the Director in the full amount of the transfer fee; the Certificate of Deposit shall be payable to County and the interest thereon shall accumulate, but the principal sum and interest shall remain the property of Contractor in the event the Executive Director's decision is reversed.

13.37 WAIVER

No waiver by the County of any breach of any provision of this Agreement shall constitute a waiver of any other breach or of such provision. Failure of the County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The rights and remedies set forth in this Sub-paragraph 13.37 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

13.38 WARRANTY AGAINST CONTINGENT FEES

13.38.1 The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

13.38.2 For breach of this warranty, the County shall have the right to terminate this Agreement and, at its sole discretion, deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

13.39 ENTIRE AGREEMENT

This document, and the exhibit(s) attached hereto, constitutes the entire agreement between the County and Contractor for the Group Picnic concession at Bonelli Regional Park. All other agreements, promises and representations with respect thereto, other than those contained herein, are expressly revoked, as it has been the intention of the parties to provide for a complete integration within the provisions of this document, and the exhibit(s) attached hereto, the terms, conditions, promises and covenants relating to the concession and the premises to be used in the conduct thereof.

13.39 ENTIRE AGREEMENT

This document, and the exhibit(s) attached hereto, constitutes the entire agreement between the County and Contractor for the Group Picnic concession at Bonelli Regional Park. All other agreements, promises and representations with respect thereto, other than those contained herein, are expressly revoked, as it has been the intention of the parties to provide for a complete integration within the provisions of this document, and the exhibit(s) attached hereto, the terms, conditions, promises and covenants relating to the concession and the premises to be used in the conduct thereof.

13.40 AUTHORIZATION WARRANTY

The Contractor represents and warrants that the person executing this Agreement for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition, and obligation of this Agreement and that all requirements of the Contractor have been fulfilled to provide such actual authority.

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IN WITNESS WHEREOF Contractor has executed this Agreement, or caused it to be duly executed, and the County of Los Angeles by order of its Board of Supervisors, has caused this Agreement to be executed on its behalf by the Director of the Department of Parks and Recreation, on the day and year first above written.

CONTRACTOR

By _____
President, James Event Productions

COUNTY OF LOS ANGELES

By _____
Chairman, Board of Supervisors

ATTEST:

VIOLET VARONA-LUKENS
Executive Officer-Clerk of
The Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:

LLOYD W. PELLMAN
County Counsel

By _____
Principal Deputy County Counsel

STATE OF CALIFORNIA }
 }
COUNTY OF LOS ANGELES } s.s.
 }

On this 26TH day of APRIL, 2004,
before me, Conny B. McCormack, the Registrar-Recorder/County Clerk of the County of
Los Angeles, personally appeared GARRETT JAMES, as the
PRESIDENT of JAMES EVENT PRODUCTIONS, INC. personally
known to me (or proved to me on the basis of satisfactory evidence) to be the person
whose name is subscribed to the within instrument and acknowledged to me that the
person executed the same in his / her authorized capacity, and that by his / her signature
on the instrument the Corporation upon behalf of which the person acted, executed the
instrument.

WITNESS my hand and official seal.



Conny B. McCormack
Registrar-Recorder / County Clerk
County of Los Angeles

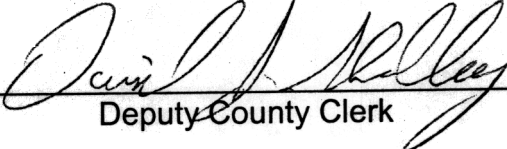
By 
Deputy County Clerk

EXHIBIT A

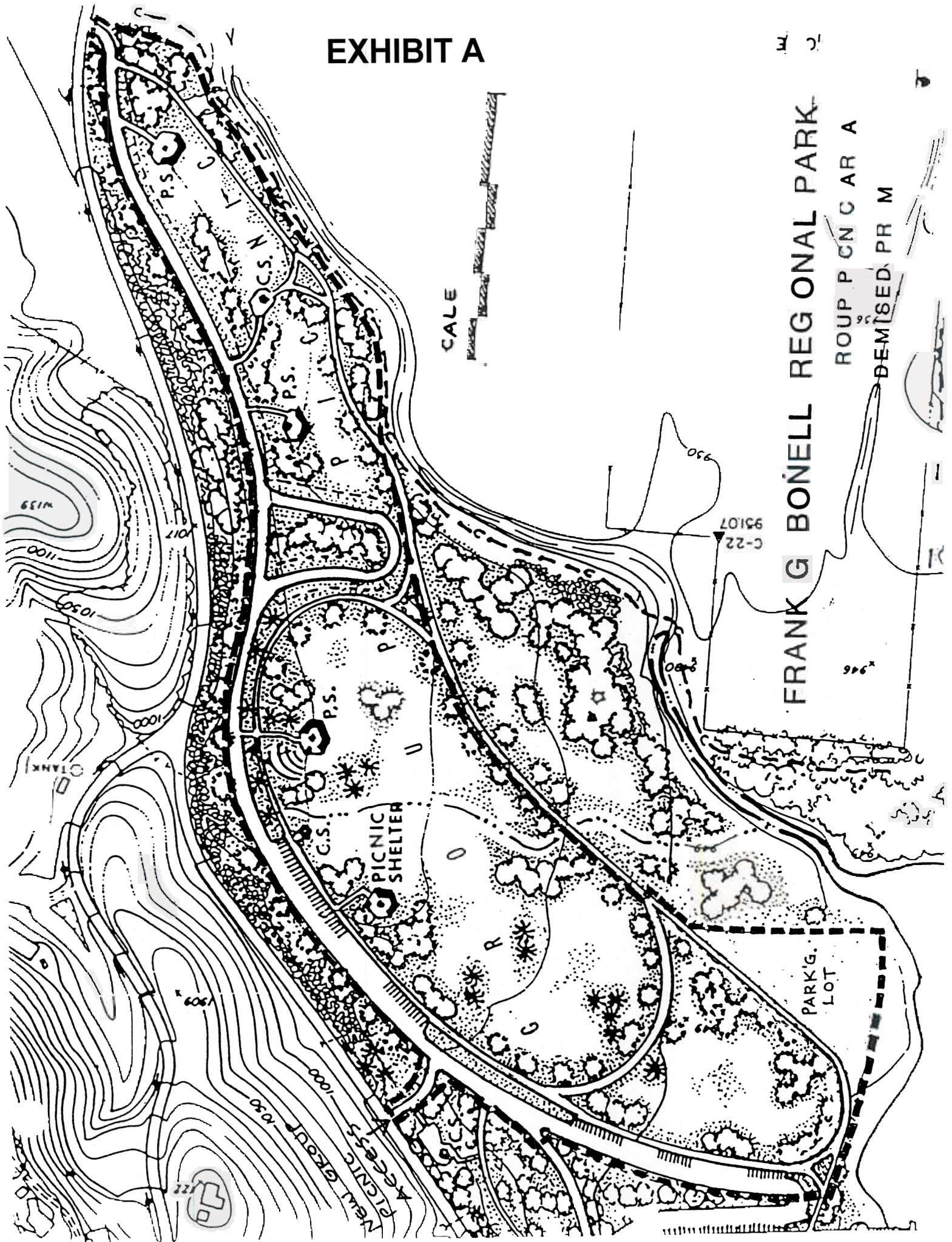


EXHIBIT B

REFURBISHMENT PROGRAM

Projects to be completed 12/31/05 *

Areas 1 & 2

Projects

- 1 Irrigation system repair & upgrade - timers, valves, heads; Plant 30 20-foot tall trees
- 2 Add volleyball court & horse shoe pits
- 3 Shelter Repair
- 4 Improve electrical systems both areas
- 5 Create permanent secured trash area adjacent to both areas
- 6 Aerate/Fertilize 4 times annually & repair concrete in both areas
- 7 Paint both facilities

Area 3

Projects

- 1 Perimeter Fencing - Wood/Chain Link Combination
- 2 Install 4 hard slab service areas/add pathways/replace existing cracked concrete
- 3 Import four truckloads of topsoil with sand mix/Overseed & fertilize 4 times annually/ Aerate twice annually; Create a lawn bowling area
- 4 Run additional electrical lines with outlets to attraction areas; Add new outlets to shade structure
- 5 Upgrade restroom fixtures and dispensers; Fix storage areas; Change entry doors to solid doors
- 6 Reconfigure building: secure & add interior walls; add service windows; perform electrical repair & install phone lines
- 7 Replace center shade structure area
- 8 Irrigation System Maintenance
- 9 Plant approx, 50 (20 foot tall) trees
- 10 Paint - entire facility/County approved color
- 11 Enclose Trash Area w/fencing

**Area 4
Projects**

- 1 Redo restroom in existing building, add service areas & windows; connect to new shade structure, roof extension, create additional storage
- 2 Replace center shade structure & enlarge shaded area
- 3 Redo electrical panel, rework distribution to new shaded seating area
- 4 Install Sidewinder Rock Climbing Wali
- 5 Install Low Impact Rope Course
- 6 Install Perimeter Fencing
- 7 Install Off Road Track
- 8 Install Go Cart Storage Area
- 9 Trees - Plant 50 (20 foot height)
- 10 Import four truckloads of topsoil with sand mix/Overseed/fertilize 4 times annually/Aerate twice annually/Create a lawn bowling area
- 11 Install 4 hard slab service areas/add pathways/replace existing cracked concrete
- 12 Install Play Area - Swings, Jungle Gym
- 13 Install Entrance Shade Structure
- 14 Install 2 Volleyball and 1 basketball courts, and 2 horseshoe pits

**Area 4 extension
Projects**

- 1 Install Fencing & Entrance Shelter
- 2 Install Shaded Seating Area
- 3 Extend Electrical Service
- 4 Install 2 horseshoe pits, 2 volleyball courts, & a ping pong play area
- 5 Plant 20 trees, level grass areas & rework sprinklers
- 6 Add water service, install hard surface entrance & pathways

**** Final implementation of improvements subject to CEQA review requirements.***

EXHIBIT C

APPENDIX C: REQUIRED FORMS

REQUIRED FORMS - EXHIBIT R-6

PROPOSER'S EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

James Productions, Inc
Proposer's Name
1116 N. Olive Street, Anaheim CA 92801
Business Address
33-0282966
Internal Revenue Service Employer Identification Number

GENERAL

In accordance with *Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000e through 2000e-17, Section 504 of the Rehabilitation Act of 1975, the Food Stamp Act of 1977, the Welfare and Institutions Code Section 1000, Americans with Disability Act of 1990, California Department of Social Services Manual of Policies and Procedures Division 21, the Contractor, supplier, or vendor certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, creed, color, national origin, political affiliation, marital status, age, disability, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.*

PROPOSER'S CERTIFICATION

- | | <u>Check One</u> |
|---|--|
| The Proposer has a written policy statement prohibiting discrimination in all phases of employment | <input checked="" type="checkbox"/> Yes [] No |
| 2 The Proposer periodically conducts a self analysis or utilization analysis of its work force. | [<input checked="" type="checkbox"/>] Yes No |
| 3 The Proposer has a system for determining if its employment practices are discriminatory against protected groups. | <input checked="" type="checkbox"/> Yes [] No |
| 4 Where problem areas are identified in employment practices, the Proposer has a system for taking reasonable corrective action which includes the establishment of goals and timetables. | [<input checked="" type="checkbox"/>] Yes [] No |

Name and Title of Signer (please print or type) President
Signature [Signature] Date 5/29/2002

Title 2 Administration
Chapter 2.202 Determinations of Contractor Non-Responsibility
And Contractor Debarment

2.202.010 Findings and Declarations.

The Board of Supervisors finds that, in order to promote integrity in the County's contracting processes and to protect the public interest, the County's policy shall be to conduct business only with responsible contractors. Determinations of contractor non-responsibility and contractor debarment shall be made in accordance with the procedures set forth in the ordinance codified in this chapter and implementation instructions issued the Auditor-Controller. (Ordinance 2000-0011 § 1 (part), 2000.)

2.202.020 Definitions.

For the purposes of this chapter, the following definitions apply:

A. "Contractor" means a person, partnership, corporation or other entity who has contracted with, or is seeking to contract with, the County to provide goods to, or perform services for or on behalf of, the County. A contractor includes a contractor, subcontractor, vendor, or any person or entity who or which owns an interest of 10 percent or more in a contractor, subcontractor or vendor.

B. "Contract" means any agreement to provide goods to, or perform services for or on behalf of, the County.

C. "Debarment" means an action taken by the County which results in a contractor being prohibited from bidding upon, being awarded, and/or performing work on a contract with the County for a period of up to three years. A contractor who has been determined by the County to be subject to such a prohibition is "debarred".

D. "Department head" means either the head of a department responsible for administering a particular contract for the County or the designee of same.

E. "County" means the County of Los Angeles, any public entities for which the Board of Supervisors is the governing body, nonprofit corporations created by the County and any joint powers authorities that have adopted County contracting procedures.

F. "Contractor hearing board" means the persons designated to preside over contractor debarment hearings and make recommendations on debarment to the Board of Supervisors. (Ordinance 2000-0011 § 1 (part), 2000.)

2.020.030 Determination of Contractor Non-Responsibility

A. Prior to a contract being awarded by the County, the County may determine that a party submitting a bid or proposal is non-responsible for the purposes of that contract. In the event that the County determines that a bidder/proposer is non-responsible for a particular contract, said bidder/proposer shall be ineligible for the award of that contract.

B. The County may declare a contractor to be non-responsible for the purposes of a particular contract if the County, in its discretion, finds that the contractor has done any of the following: (1) committed any act or omission which negatively reflects on the contractor's quality, fitness, or capacity to perform a contract with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same; (2) committed an act or omission which indicates a lack of business integrity or

Title 2 Administration
Chapter 2.202 Determinations of Contractor Non-Responsibility
And Contractor Debarment

business honesty; or (3) made or submitted a false claim against the County or any other public entity.

C. Before making a determination of non-responsibility pursuant to this chapter, the department head shall give written notice to the contractor of the basis for the proposed non-responsibility determination, and shall advise the contractor that a non-responsibility hearing will be scheduled on a date certain. Thereafter, the department head shall conduct a hearing where evidence on the proposed non-responsibility determination is presented. The contractor and/or attorney or other authorized representative of the contractor shall be afforded an opportunity to appear at the non-responsibility hearing and to submit documentary evidence, present witnesses and offer rebuttal evidence. After such hearing, the department head shall prepare a proposed decision, which shall contain a recommendation regarding whether the contractor should be found non-responsible with respect to the contract(s) at issue. A record of the hearing, the proposed decision and any recommendation shall be presented to the Board of Supervisors. The Board of Supervisors may, in its discretion, limit any further hearing to the presentation of evidence not previously presented. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the department head. A non-responsibility finding shall become final upon approval by the Board of Supervisors.

D. The decision by the County to find a contractor non-responsible for a particular contract is within the discretion of the County. The seriousness and extent of the contractor's acts, omissions, patterns or practices as well as any relevant mitigating factors may be considered by the County in determining whether a contractor should be deemed non-responsible. (Ord. 2000-0011 § 1 (part), 2000.)

2.202.040 Debarment of Contractors.

A. The County may debar a contractor who has an existing contract with the County and/or a contractor who has submitted a bid or proposal for a new contract with the County.

B. The County may debar a contractor if the County finds, in its discretion, that the contractor has done any of the following: (1) violated any term of a contract with the County; (2) committed any act or omission which negatively reflects on the contractor's quality, fitness or capacity to perform a contract with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same; (3) committed an act or offense which indicates a lack of business integrity or business honesty; or (4) made or submitted a false claim against the County or any other public entity.

C. Before making a debarment determination pursuant to this chapter, the department head shall give written notice to the contractor of the basis for the proposed debarment, and shall advise the contractor that a debarment hearing will be scheduled on a date certain. The contractor hearing board shall conduct a hearing where evidence on the proposed debarment is presented. The contractor and/or attorney or other authorized representative must be given an opportunity to appear at the debarment hearing and to submit documentary evidence, present witnesses, and offer

Title 2 Administration
Chapter 2.202 Determinations of Contractor Non-Responsibility
And Contractor Debarment

rebuttal evidence at that hearing. After such hearing, the contractor hearing board shall prepare a proposed decision, which shall contain a recommendation regarding whether the contractor should be debarred and, if so, the appropriate length of time for the debarment. A record of the hearing, the proposed decision and any recommendation shall be presented to the Board of Supervisors. The Board of Supervisors may, at its discretion, limit any further hearing to the presentation of evidence not previously presented. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the contractor hearing board. A debarment finding shall become final upon approval of the Board of Supervisors.

D. The decision by the County to debar a contractor is within the discretion of the County. The seriousness and extent of the contractor's acts, omissions, patterns or practices as well as any relevant mitigating factors may be considered by the County in making any debarment decision. Upon a debarment finding by the Board of Supervisors, the County shall have the right, in its discretion, to determine the length that the contractor may be prohibited from bidding upon and being awarded a new contract with the County, which period may not exceed three years. In addition, upon a debarment finding by the Board of Supervisors, the County may, at its discretion, terminate any or all existing contracts the contractor may have with the County. In the event that any existing contract is terminated by the County, the County shall maintain the right to pursue all other rights and remedies provided by the contract and/or applicable law. (Ord. 2000-0011 § 1 (part), 2000.)

2.202.250 Pre-Emption.

In the event any contract is subject to Federal and/or State laws that are inconsistent with the terms of the Ordinance codified in this chapter, such laws shall control. (Ord. 2000-0011 § 1 (part), 2000.)

2.202.060 Severability

If any section, subsection, subpart or provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of this chapter and the application of such to other persons or circumstances shall not be affected thereby. (Ord. 2000-0011 § 1 (part), 2000.)



Department of the Treasury
Internal Revenue Service

Notice 1015

(Rev. November 2002)

Have You Told Your Employees About the Earned Income Credit (EIC)?

What Is the EIC?

The EIC is a refundable tax credit for certain workers.

A change to note. Workers **cannot** claim the EIC if their 2002 investment income (such as interest and dividends) is over \$2,550.

Which Employees Must I Notify About the EIC?

You must notify each employee who worked for you at any time during the year and from whom you did not withhold income tax. However, you do not have to notify any employee who claimed exemption from withholding on **Form W-4, Employee's Withholding Allowance Certificate**.

Note: You are encouraged to notify each employee whose wages for 2002 are less than \$34,178 that he or she may be eligible for the EIC.

How and When Must I Notify My Employees?

You must give the employee one of the following:

- The **IRS Form W-2, Wage and Tax Statement**, which has the required information about the EIC on the back of **Copy B**.
- A substitute **Form W-2** with the same EIC information on the back of the employee's copy that is on **Copy B** of the **IRS Form W-2**.
- **Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC)**.
- Your written statement with the same wording as **Notice 797**.

If you are required to give **Form W-2** and do so on time, no further notice is necessary if the **Form W-2** has the required information about the EIC on the back of the employee's copy. If a substitute **Form W-2** is given on time but does not have the required information, you must notify the employee within 1 week of the date the substitute **Form W-2** is given. If **Form W-2** is required but is not given on time, you must give the employee **Notice 797** or your written statement by the date **Form W-2** is required to be given. If **Form W-2** is not required, you must notify the employee by February 7, 2003.

You must hand the notice directly to the employee or send it by First-Class Mail to the employee's last known address. You will not meet the notification requirements by posting **Notice 797** on an employee bulletin board or sending it through office mail. However, you may want to post the notice to help inform all employees of the EIC. You can get copies of the notice by calling 1-800-829-3676, or from the IRS Web Site at www.irs.gov.

How Will My Employees Know If They Can Claim the EIC?

The basic requirements are covered in **Notice 797**. For more detailed information, the employee needs to see the 2002 instructions for **Form 1040, 1040A, 1040EZ**, or **Pub. 596, Earned Income Credit (EIC)**.

How Do My Employees Claim the EIC?

Eligible employees claim the EIC on their 2002 tax return. Even employees who have no tax withheld from their pay or owe no tax can claim the EIC and get a refund, but they must file a tax return to do so. For example, if an employee has no tax withheld in 2002 and owes no tax but is eligible for a credit of \$791, he or she must file a 2002 tax return to get the \$791 refund.

How Do My Employees Get Advance EIC Payments?

Eligible employees who expect to have a qualifying child for 2003 can get part of the credit with their pay during the year by giving you a completed **Form W-5, Earned Income Credit Advance Payment Certificate**. You **must** include advance EIC payments with wages paid to these employees, but the payments are not wages and are not subject to payroll taxes. Generally, the payments are made from withheld income, social security, and Medicare taxes. For details, see **Pub. 15, Employer's Tax Guide**.

Notice 1015
(Rev. 11-2002)



Certainly we would prefer that women seek help while they are pregnant, not after giving birth, to receive proper medical care and counseling. But at the same time, we want to assure parents who choose not to keep their baby that they will not go to jail if they deliver their babies to safe hands in a hospital emergency room.

**The California Safely
Surrendered Baby Law:**

Allows a distressed birth parent(s) to legally, confidentially, and safely surrender their baby

Provides a safe place for babies

Protects the parent(s) from arrest or prosecution for abandonment as long as the baby has not been abused or neglected

Does not require that names be given when the baby is surrendered

Permits parents to bring a baby within 3 days of birth to any hospital emergency room in California

**In California, no one ever
has to abandon a child again.**



State of California
Gray Davis, Governor

Health and Human Services Agency
Grantland Johnson, Secretary
Department of Social Services
Rita Saenz, Director

1-800-833-0221

**no shame.
no blame.
no names.**

**now there's a way
to safely surrender
your baby**



What is the Safely Surrendered Baby Law?

It's a new law. Under this law, a person may surrender their baby confidentially. As long as the baby has not been abused or neglected, the person may do so without fear of arrest or prosecution.

How does it work?

A distressed parent who is unable or unwilling to care for an infant can legally, confidentially and safely surrender their baby within 3 days of birth. All that is required is that the baby be brought to a hospital emergency room in California. If there are additional places, they will be listed on the back of this brochure. As long as the child shows no signs of abuse or neglect, no name or other information is required. A bracelet will be placed on the baby for identification. A matching bracelet will be given to the parent. The bracelet will help connect the parent to the baby if the parent wants the baby back.

Can only a parent bring in the baby?

In most cases, a parent will bring in the baby. The law allows another person to bring in the baby if they have legal custody.

Does the parent have to call before bringing in the baby?

No. A parent can bring in a baby anytime, 24 hours a day, 7 days a week.

Does a parent have to tell anything to the people taking the baby?

No. Nothing is required. However, hospital personnel will give the parent a medical information questionnaire that is designed to gather family medical history. This could be very useful in caring for the child but it is up to the parent to complete it.

What happens to the baby?

The baby will be examined and given medical treatment, if needed. Then the baby will be placed in a foster or pre-adoptive home.

What happens to the parent?

Once the parent(s) has safely turned over the baby, they are free to go.

What if a parent wants the baby back?

The parent(s) may take the bracelet back to the hospital. Hospital personnel will provide information about the baby.

Why is California doing this?

The purpose of the Safely Surrendered Baby Law is to protect babies from being hurt or killed because they were abandoned.

You may have heard tragic stories of babies left in dumpsters or public toilets. The persons who committed these acts may have been under severe emotional distress. The mothers may have hidden their pregnancies, fearful of what would happen if their families found out. Because they were afraid and had nowhere to turn for help, they abandoned their infants.

Abandoning a baby puts the child in extreme danger. It is also illegal. Too often, it results in the baby's death. Because of the Safely Surrendered Baby Law, this tragedy doesn't ever have to happen in California again.

The Eighteenth Safely Surrendered Baby in California

At 8:30 a.m. on Thursday, July 25, 2002, a healthy newborn baby was brought to St. Bernardine Medical Center in San Bernardino under the provisions of the California Safely Surrendered Baby Law.

This baby was the eighteenth child protected under California's Safely Surrendered Baby Law. As the law states, the baby's mother did not have to identify herself. When the baby was brought to the emergency room, he was examined by a pediatrician, who determined that the baby was healthy and doing fine. He was placed in a foster home for short-term care while the adoption process was started.

**Every baby deserves a chance for a healthy life.
If you or someone you know is considering
giving up a child, learn about your options.**

**Los Angeles County
Safely
Surrendered
Baby
Hotline**



(877)BABY SAFE

Toll Free (877) 222-9723

- Call for Information on How to Safely Surrender a Newborn Infant Under the Safely Surrendered Baby Law
- Referrals Provided to Designated Safe Haven Sites
- Referrals Provided to Other Support Services

- Guaranteed Confidentiality
- 7 Days a Week
- 24 Hours a Day
- English and Spanish and 140 Other Languages Spoken



INFO LINE of Los Angeles has been in business since 1981.
INFO LINE of Los Angeles is an AIRS accredited agency.

Calls from the media should be directed to Thelma Bell or Michele Yoder at (626) 350-1841.